

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WINNIFRIED NOEL CHARLES,

Plaintiff,

-against-

MICHAEL CHERTOFF, Secretary of the Department  
of Homeland Security, in his official capacity,  
ENRICA TROY, MARY ANN GANTNER, and THE  
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

----- x  
86 Chambers Street  
New York, New York

April 10, 2008  
11:21 a.m.

DEPOSITION of ENRICA M. TROY, a  
Defendant in the above-entitled action, held at  
the above time and place, pursuant to Notice,  
taken before Caryn R. Miller, a shorthand  
reporter and Notary Public within and for the  
State of New York.

LEX #66866

## STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED  
by and between the attorneys for the  
respective parties herein, that filing,  
sealing and certification be and the  
same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the  
form of the question shall be reserved  
to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be signed  
and sworn to before any officer  
authorized to administer an oath, with  
the same force and effect as if signed  
and sworn to before the Court.

## Appearances:

MICHAEL P. MANGAN, LLC  
Attorneys for Plaintiff  
80 Wall Street, Suite 1214  
New York, New York 10005  
BY: MICHAEL MANGAN, ESQ.

U.S. DEPARTMENT OF JUSTICE  
U.S. ATTORNEY'S OFFICE,  
SOUTHERN DISTRICT OF NEW YORK  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
BY: JOSEPH A. PANTOJA, ESQ.

## ALSO PRESENT:

WINNIFRIED NOEL CHARLES

ENRICA M. TROY, the witness herein,  
having first been duly sworn by a  
Notary Public of the State of New York,  
was examined and testified as follows:

## EXAMINATION BY

MR. MANGAN:

**Q** Please state your name for the  
record.

**A** Enrica M. Troy.

**Q** Please state your address for the  
record.

**A** 13 Enfield Drive, East Windsor,  
New Jersey 08520.

**Q** Good morning, Ms. Troy. My name  
is Michael Mangan. I'm an attorney who  
represents the plaintiff in this action. I'm  
going to ask you some questions today. If at  
any time you don't understand my question,  
please ask me to rephrase it. I will be very  
happy to do that. But if you don't ask me to  
rephrase, I'm going to assume that you  
understand what's meant. Okay?

**A** Uh-huh.

**Q** Also, if you could please make all

1 Troy 5  
 2 of your responses verbal. As you can see, we  
 3 have a court reporter with us today and we  
 4 need to keep a record and she's unable to take  
 5 nonverbal responses down. Along the same  
 6 lines, if you could also please just wait for  
 7 me to finish my complete question before you  
 8 give your answer. In this way, the court  
 9 reporter will be able to properly transcribe  
 10 rather than having to try to transcribe people  
 11 speaking over one another. Okay?

12 **A Okay.**

13 **Q** Finally, if at any time you want  
 14 to take a break, I'm very happy to accommodate  
 15 you. I just ask that if there's a pending  
 16 question, before you take a break or speak to  
 17 your counsel, if you could just first answer  
 18 that question before speaking to counsel.  
 19 Okay?

20 **A Sure, uh-huh.**

21 **Q** Ms. Troy, are you currently  
 22 employed?

23 **A Yes, I am.**

24 **Q** By whom are you employed?

25 **A USCIS.**  
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1 Troy 6  
 2 **Q** And that is the United States  
 3 Citizen and Immigration Service?  
 4 **A Yes, it is.**  
 5 **Q** Which is a part of The Department  
 6 of Homeland Security, correct?  
 7 **A Yes.**  
 8 **Q** Which is also a part of the  
 9 Federal Government, correct?  
 10 **A Yes, correct.**  
 11 **Q** If I refer to the USCIS as the  
 12 CIS, would you understand that to mean the  
 13 USCIS?  
 14 **A Yes, I would.**  
 15 **Q** For how long have you been an  
 16 employee of the CIS?  
 17 **A This time, since July of 2001.**  
 18 **Q** Was there a prior time?  
 19 **A Yes, but that was from July of '76**  
 20 **to 1990 -- November of 1990.**  
 21 **Q** What is your current position?  
 22 **A I'm the section chief of the**  
 23 **naturalization section.**  
 24 **Q** For how long have you been the  
 25 section chief of the naturalization section?  
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1 Troy 7  
 2 **A I believe -- see, everything all**  
 3 **came into one. I was acting for a while and**  
 4 **then I became the section chief, so it's**  
 5 **probably this -- was it this February --**  
 6 **probably December -- December of 2007, I**  
 7 **think. That's not -- you know, I'm not sure**  
 8 **of the exact date.**  
 9 **Q** And prior to approximately  
 10 December of 2007, were you the acting section  
 11 chief of the naturalization section?  
 12 **A I was acting for a couple of**  
 13 **months.**  
 14 **Q** Would you say approximately  
 15 starting in September of 2007?  
 16 **A You know, it couldn't be. I was**  
 17 **probably -- probably around November. I can't**  
 18 **remember the exact dates. I'm sorry.**  
 19 **Q** Okay, so that would be November of  
 20 2007?  
 21 **A Seven, yeah. I can't remember the**  
 22 **exact dates.**  
 23 **Q** Prior to your assignment as acting  
 24 section chief, what was your position?  
 25 **A I was the site manager for the**  
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1 Troy 8  
 2 **naturalization section.**  
 3 **Q** When were you appointed to that  
 4 position?  
 5 **A I believe it was the -- it became**  
 6 **-- I was acting from November to February --**  
 7 **November of '0 -- I was acting for two or**  
 8 **three months, and then I think it was February**  
 9 **of '07 that I got the permanent site manager**  
 10 **position. The dates are starting to -- I know**  
 11 **I was a year -- I was a site manager for a**  
 12 **year and then I became the section chief. The**  
 13 **dates are kind of --**  
 14 **Q** So then would it be fair to say  
 15 that you were appointed to the site manager  
 16 position in the fall of 2006?  
 17 **A Yeah. Yeah, that's --**  
 18 **Q** Approximate.  
 19 **A Yes, approximately. I don't know**  
 20 **the exact dates. I'm sorry, I can't remember.**  
 21 **Q** And prior to the position of site  
 22 manager, what was your position with CIS?  
 23 **A I was the supervisor and**  
 24 **adjudications officer.**  
 25 **Q** If I refer to that position as an  
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Troy

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SDAO, would you understand what that means?

**A Yes. It's now called SAO, but at that point, it was SDAO.**

**Q** What does DAO stand for?

**A District adjudication officer.**

**Q** If I use the term DAO, would you understand that to mean district adjudication officer?

**A Yes.**

**Q** When were you appointed to the position of SDAO?

**A I actually came in in July of 2001 as SDAO.**

**Q** What section was that assignment in?

**A In Nats.**

**Q** Nats?

**A Naturalization.**

**Q** Is that an abbreviation of the naturalization section, Nats?

**A Yes.**

**Q** Since 2001, have you always worked in the Nats section?

**A Yes.**

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**Q** That is from 2001 until today?

**A That's correct.**

**Q** Did you review any documents prior to testifying today in preparation for today's testimony?

**A No.**

**Q** Did you speak with anybody, other than your counsel, in preparation for today's deposition?

**A My counsel -- you mean other than Mr. Pantoja?**

**Q** Yes.

**A No.**

**Q** Between 1990 and 2001, were you employed?

**A No, I was not.**

**Q** Between 1976 and 1990, were you working in the New York District of the CIS?

**A Yes, I was.**

**Q** What was your first position with the CIS?

**A Okay, I started as a clerk typist.**

**Then I was a -- it was another clerk position. I can't remember the exact name.**

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**Q** Let me ask you first,

approximately how long did that first clerk typist position last?

**A It was about a year.**

**Q** And then you had another clerking position, correct?

**A Yes.**

**Q** Were either of those two positions within the naturalization section?

**A They both were.**

**Q** What was your next position?

**A I was a secretary.**

**Q** When did you first have the secretarial position, approximately, if you could remember?

**A 1978.**

**Q** That was also in the naturalization section?

**A No. That was in adjudications.**

**Q** For how long did that position last?

**A One year.**

**Q** And what was your next position after that?

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**A Paralegal specialist.**

**Q** For how long did that position last?

**A Well, the title has change -- the title changed from a paralegal specialist. It became an immigration examiner, and I believe it was until about '85.**

**Q** So from approximately 1979 to 1985, you held the position that was originally called paralegal specialist and then changed in title to immigration examiner?

**A Correct.**

**Q** Were the duties the same, whether the name of the title was different?

**A Yes, they were.**

**Q** What were the duties that were involved?

**A I was also in the naturalization section. We were interviewing applicants for naturalization.**

**Q** Did you receive any training in order to fill that position prior to taking the position?

**A We first went to training in 1979,**

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2 and then again when we were grandfathered into  
3 the immigration examiner's position in 1982, I  
4 think.

5 Q That was additional training in  
6 1982?

7 A Right, because the paralegal  
8 specialist was just training for  
9 naturalization, whereas the immigration  
10 examiner was training for all of  
11 adjudications.

12 Q So did your job change in any way  
13 between being called a paralegal specialist  
14 and an immigration examiner?

15 A See, my job -- my job didn't  
16 change. I could have been sent to the other  
17 sections. As a paralegal, you only stayed in  
18 naturalization, but as an immigration  
19 examiner, you were able to go to the other  
20 sections, you know, and do adjustment of  
21 status and other -- other applications. But  
22 as a paralegal, you only did naturalization.  
23 But I never moved. I stayed in  
24 naturalization.

25 Q Explain to me how that works that  
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2 an immigration examiner can work in more than  
3 one section, if you know.

4 A If they move -- if they transfer  
5 you to another section -- if you get  
6 transferred, I guess.

7 Q But is it the status based upon  
8 the training that you have as an immigration  
9 examiner that enabled you to work in more than  
10 one section, if you know?

11 A No.

12 Q You don't know or --

13 A I -- when you get hired -- no,  
14 I don't know. When you get hired, you get  
15 hired and you go into particular section. I  
16 don't --

17 Q Do you believe that between 1982  
18 and 1985, as an immigration examiner, you  
19 could have worked in more than one section?

20 MR. PANTOJA: Objection.

21 A I guess I could have. I'm not  
22 sure, yeah. I received the training for it,  
23 put it that way.

24 Q Is there a difference between the  
25 title immigration examiner between '82 and '85  
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2 and what's currently called district  
3 adjudication officer?

4 A I wasn't there when the title was  
5 changed. It's the same duties, same thing.  
6 Immigration examiner and the adjudication  
7 officer is the same. They do the same thing,  
8 but I was not there when the title changed. I  
9 was -- that was in between the time I was out.

10 Q So by the time you came back to  
11 the CIS in about 2001, is it your  
12 understanding that there were no longer  
13 positions titled immigration examiner?

14 MR. PANTOJA: Objection.

15 A Guess -- I haven't seen any. No  
16 one that I know was called immigration  
17 examiner.

18 MR. PANTOJA: Off the  
19 record.

20 (Whereupon, a discussion was  
21 held off the record.)

22 Q We've been talking about the CIS  
23 in this deposition and you've been answering  
24 questions about it.

25 A Right.  
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2 Q Was the governmental unit that  
3 you're now working for, which you've referred  
4 to as the CIS, was that unit called the CIS  
5 between 1975 and 1990?

6 A No. It was called the Immigration  
7 Naturalization Service.

8 Q And in other words, the INS?

9 A INS.

10 Q Would the INS perform the same  
11 functions that the CIS is now performing, to  
12 your knowledge?

13 A Yes. Yes.

14 Q If I used the term CIS to refer to  
15 the New York District that was performing the  
16 same services before 1990 that you're aware  
17 of, would you understand that to also include  
18 the governmental unit INS?

19 A Yes.

20 Q Now, just so I'm clear, did you  
21 remain in the position of immigration examiner  
22 from 1979 until approximately 1990?

23 A No. No.

24 Q What was your next position?

25 A After I became the -- well,  
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2 copy of the eligibility list showing who is on  
3 the list to be promoted, who was requesting a  
4 promotion?

MR. PANTOJA: Objection.

6 **A Everyone would see the list. If**  
7 **you have an opening, the only time you get to**  
8 **see the list or get a copy of the list is if**  
9 **you are -- if you have someone -- you know, an**  
10 **opening in your section. Otherwise, you would**  
11 **not get the list.**

12 **Q So it was unusual for Jimmy Tu to**  
13 **see the lists for that opening if it wasn't**  
14 **his section, correct?**

15 **A Right. He didn't get the list.**  
16 **He just did the interviews with us. I mean,**  
17 **the list was with myself and Mr. Bunce, okay,**  
18 **because we were the ones conducting the**  
19 **interview. He was just in the interview with**  
20 **us. We had three people doing the interviews.**

21 **Q Is there a rule about that as far**  
22 **as you know that only the persons who are the**  
23 **supervisors of the section that has a vacancy**  
24 **get to see the list?**

MR. PANTOJA: Objection.

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2 **A I'm not -- no, I don't know if**  
3 **there's a rule, but there would be no need for**  
4 **anyone else to get the list.**

5 **Q Well, would you want to know if,**  
6 **for instance, an SDAO who you were supervising**  
7 **was applying for a promotion in some other**  
8 **section?**

MR. PANTOJA: Objection.

10 **A They normally tell me.**

11 **Q Your SDAO would tell you that?**

12 **A Yeah.**

13 **Q Well, how about if that person was**  
14 **going to be applying for another position with**  
15 **another section, would it be normal for the**  
16 **supervisor of the section with the vacancy to**  
17 **ask you questions about that person?**

MR. PANTOJA: Objection.

19 **A That's not done all the time.**

20 **Q Is it unusual for that to happen?**

21 **A Is it unusual?**

MR. PANTOJA: Objection.

22 **A I guess not.**

24 **Q Is it common?**

25 **A I don't know.**

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2 **Q Has it ever happened to you**  
3 **before?**

4 **A If I was asked about someone else?**

5 **Q Yes.**

6 **A Yes, it has. People have asked**  
7 **me, but that was for not a supervisory**  
8 **position. I was asked -- I was called by --**  
9 **there was one person overseas that was**  
10 **applying for a position and they called me and**  
11 **asked me about her.**

12 **Q Did anybody ever ask you about**  
13 **Ms. Charles --**

14 **A No.**

15 **Q -- when she was applying for**  
16 **positions?**

MR. PANTOJA: Objection.

18 **A No.**

19 **Q Did you have any knowledge that**  
20 **she was applying for a position in supervisory**  
21 **position in 2005 or 2006?**

22 **A None whatsoever.**

23 **Q Did you ever see a list with her**  
24 **name on it?**

25 **A No, I did not.**

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2 **Q When did you first learn that Ms.**  
3 **Charles had filed any kind of complaint for**  
4 **not being granted a promotion in the CIS?**

MR. PANTOJA: Objection.

6 **A The day I received the complaint.**

7 **Q I'm not talking about the lawsuit.**  
8 **I'm talking about whether or not you received**  
9 **any information that she had a grievance or an**  
10 **internal written complaint with the CIS.**

MR. PANTOJA: Objection.

12 **A The day I received the complaint.**

13 **Q You're talking about the complaint**  
14 **in this action?**

15 **A Yes.**

16 **Q Okay, did Mr. Bunce ever tell you**  
17 **that he was participating in an arbitration,**  
18 **internal arbitration having to do with Ms.**  
19 **Charles' claims?**

MR. PANTOJA: Objection.

21 **A No.**

22 **Q Did Mr. Bunce -- I'm sorry?**

23 **A I never knew there was one.**

24 **Q Did Mr. Bunce ever talk to you**  
25 **about Ms. Charles' grievance or claim?**

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MR. PANTOJA: Objection.

**A No.**

**Q** He's never spoken to you about Ms. Charles regarding a grievance or complaint from the beginning of the Earth until today?

MR. PANTOJA: Objection.

**A Right. I didn't know that there was -- the only time I learned that there was an issue was when I got the complaint, and I was kind of surprised because I never knew she applied for anything. So I don't know of any, okay.**

**Q** Did you ever have a conversation with Mr. Bunce about Ms. Charles?

MR. PANTOJA: Objection.

**A The only conversation we had was when she applied for the internship.**

**Q** What was said then?

MR. PANTOJA: Objection.

**A We were discussing whether or not we can grant her the six months' leave she was requesting.**

**Q** Do you remember what was decided?

**A It was decided that we could not**

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**2 spare her.**

**Q** Could not spare her?

**A Right.**

**Q** Do you know if she was actually given the six-month internship?

**A She was not.**

**Q** When about was that, if you remember?

**A Just before she left. I believe it was 2006 -- summer of 2006, I believe, or just before the summer.**

**Q** What was said between you and Mr. Bunce about that?

**A Well --**

MR. PANTOJA: Objection.

**A We were just looking at who we had. There was a backlog reduction in process. We were losing terms. We were losing employees and we -- we had a goal. Each year, you get a goal. You need to meet that goal and we couldn't afford to lose another person for six months.**

**Q** Do you remember when it was that Ms. Charles left the CIS, or I should say when

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**2 it was that she left her position in the**  
**3 naturalization group?**

**A I believe it was 2006.**

**Q** Do you know what month?

**A No.**

**Q** Since she left, have any DAOs in the naturalization section been promoted to SDAO?

**A I don't believe so. There was Kenya Steinke and Halide. Those are the only two I can think of, but I'm not sure when -- if it was before she left or after she left. I'm not good on dates.**

**Q** How about Jessica Clark, has she been promoted from a position of DAO and naturalization?

**A She was senior thirteen. She was promoted to senior thirteen and she's been acting for us for a couple of months because we were short a supervisor.**

**Q** So she's a GS13?

**A Yes.**

**Q** And that means she's an SDAO?

**A No. She's been acting as an SDAO,**

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**2 but we just -- about a year ago, they**  
**3 instituted a new position, a senior thirteen**  
**4 position. We selected a number of senior**  
**5 thirteens. Actually, we have three of them in**  
**6 our unit, okay. They are there to mentor, to**  
**7 train, to assist new employees, okay. Jessica**  
**8 Clark is one of them, but since we were short**  
**9 -- when Scott Ruben got the site manager, we**  
**10 were short a supervisor, so we had her as an**  
**11 acting SDAO.**

**Q** When did that happen, approximately?

**A About four or five months ago.**

**Q** She had been a DAO in the naturalization section, correct?

**A Correct.**

**Q** Kenya Steinke and Halide Jaefer had also been DAO in the naturalization section?

**A No. Halide Jaefer came from the asylum unit.**

**Q** Did you interview Halide Jaefer before she was given position of SDAO?

**A No.**

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